

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

KIRBY MOORE	*	CIVIL ACTION
	*	
	*	NO.
VERSUS	*	
	*	SECTION
NATIONAL UNION FIRE INSURANCE	*	
COMPANY OF PITTSBURGH, PA,	*	MAGISTRATE
HALLIBURTON ENERGY SERVICES,	*	
INC. AND PATRICK BAUGHMAN, JR.	*	
	*	
DEMAND FOR JURY TRIAL IS MADE	*	

NOTICE OF REMOVAL

Defendants, National Union Fire Insurance Company of Pittsburgh, PA, Halliburton Energy Services, Inc. and Patrick Baughman, Jr. (collectively called “Defendants”), through undersigned counsel and pursuant to 28 U.S.C. §§ 1441 and 1446, file this Notice of Removal of the captioned action, *Kirby Moore v. National Union Fire Insurance Company of Pittsburgh, PA, Halliburton Energy Services, Inc. and Patrick Baughman, Jr.*, Suit No. 158009, Div. A., on the docket of the 26th Judicial District Court for the Parish of Bossier, State of Louisiana. In support of its Notice of Removal, Defendants respectfully represent:

PARTIES AND PLEADINGS

1. On December 6, 2018, Plaintiff, Kirby Moore (“Plaintiff”), commenced the captioned action by filing a Petition for Damages (the “Petition”) in the 26th Judicial District Court for the Parish of Bossier, State of Louisiana against National Union Fire Insurance Company of Pittsburgh, PA, Halliburton Energy Services, Inc. and Patrick Baughman, Jr. (hereinafter collectively referred to as “Defendants”).¹

¹ Exhibit A (State Court Record - Petition for Damages).

2. A copy of all process, pleadings, and orders served upon National Union Fire Insurance Company of Pittsburgh, PA, Halliburton Energy Services, Inc. and Patrick Baughman, Jr. in the state court action are attached hereto as Exhibit A, *in globo*.

3. Plaintiff served the petition on National Union Fire Insurance Company of Pittsburgh, PA, through the Louisiana Secretary of State on December 28, 2018; Halliburton Energy Services, Inc. through its registered agent of service of process, Capitol Corporate Services, Inc. on December 28, 2018; and Patrick Baughman, Jr. through the Louisiana Secretary of State, Pursuant to Non-Resident Motorist Act LA R.S. 13:3474, on December 28, 2018.

4. This action is removed on the grounds of diversity jurisdiction pursuant to 28 U.S.C. §§1332 and 1441(a) and, in accordance with 28 U.S.C. §1446(b)(3), is removed within 30 days after receipt by defendant of “a copy of an amended pleading, motion, order or other paper from which if may first be ascertained that the case is one which is or has become removable.”

5. The 26th Judicial District Court for the Parish of Bossier, State of Louisiana, is located within the Western District of Louisiana in accordance with 28 U.S.C. §98.

PLAINTIFF'S ALLEGATIONS

6. This lawsuit seeks damages from the defendants for injuries allegedly sustained by the Plaintiff as a result of a motor vehicle collision that occurred at the intersection of Industrial Drive and Swan Lake Drive in the Parish of Caddo, State of Louisiana on May 10, 2018.²

7. The Petition alleges that damages exceed the amount required for a trial by jury and the amount required for federal diversity jurisdiction.³

² Exhibit A, Petition for Damages at ¶¶ 2-4.

³ Exhibit A, Petition for Damages at ¶ 9.

8. 28 U.S.C. § 1332 provides federal district courts with concurrent original jurisdiction in cases “where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between (1) citizens of different States . . .”

9. The Fifth Circuit has explained that for purposes of establishing removal jurisdiction, a defendant may demonstrate that the amount in controversy exceeds \$75,000, “in either of two ways: (1) by demonstrating that it is ‘facially apparent’ from the petition that the claim likely exceeds \$75,000 or (2) ‘by setting forth the facts in controversy – preferably in the removal petition, but sometimes by affidavit – that support a finding of the requisite amount.’”⁴

10. Plaintiff’s Petition alleges that damages exceed the jurisdictional amount for diversity. In addition, Plaintiff further states that he sustained personal injury and pecuniary loss, injuries to his body and mind, including but not limited to his neck, back, shoulders, forearms, and wrists, together with past and future mental anguish and physical suffering; past and future loss of enjoyment of life; past and future expenses for medical care; past and future loss of earnings and impaired earning capacity. Thus, it is facially apparent that Plaintiff’s claim satisfies the jurisdictional amount required by 28 U.S.C. § 1332; therefore, the amount in controversy requirement is satisfied.

11. While Defendants admit no liability, nor any element of damages, Defendants have met its burden of showing that the amount in controversy is in excess of SEVENTY-FIVE THOUSAND AND NO/100 (\$75,000.00) DOLLARS, exclusive of interest and costs.

⁴ *Grant v. Chevron Phillips Chemical Co.*, 309 F.3d 864, 868 (5th Cir. 2002) (quoting *Allen v. R & H Oil & Gas Co.*, 63 F.3d 1326, 1335 (5th Cir. 1995)).

DIVERSITY JURISDICTION

11. This Honorable Court has original jurisdiction of this action in accordance with 28 U.S.C. §1332 and, therefore, this action is removable to this Court on the basis that the properly joined parties to this action are completely diverse, as follows:

12. Plaintiff alleges in its Petition that he is domiciled in Parish of Bossier, State of Louisiana.⁵

13. Defendant, National Union Fire Insurance Company of Pittsburgh, PA, is a foreign insurance carrier which is incorporated in the State of Pennsylvania and has its principal place of business in New York, New York.

14. Defendant, Halliburton Energy Services, Inc., which is incorporated in the State of Delaware and has its principal place of business in Houston, Texas.

15. Patrick Baughman, Jr., is domicile in the state of Mississippi.

16. Accordingly, there is complete diversity of citizenship between Plaintiff and Defendants.

REMOVAL PROCEDURE

17. Given the above, this is a civil action over which the United States District Court for the Western District of Louisiana has concurrent original jurisdiction under the provisions of 28 U.S.C. § 1332, et. seq., as the amount in controversy exceeds \$75,000.00, exclusive of interests and costs, and complete diversity exists between all adverse parties. As such, removal is appropriate.

18. The 26th Judicial District Court for the Parish of Bossier, State of Louisiana, is located within the Western District of Louisiana pursuant to 28 U.S.C. § 98. Therefore, venue is

⁵ Exhibit A, Petition, Introductory Paragraph.

proper in accordance with 28 U.S.C. § 1441(a) because it is the “district and division embracing the place where such action is pending.”

19. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served upon Defendants in the state court action is attached hereto.⁶ Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon Plaintiff and a copy is being filed with the Clerk of Court for the 26th Judicial District Court, Parish of Bossier, State of Louisiana.

20. No previous application has been made for the relief requested herein.

21. The Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and Uniform Local Rules of the District Courts.

22. Defendants are entitled to and requests a trial by jury herein on all issues.

WHEREFORE, Defendants, National Union Fire Insurance Company of Pittsburgh, PA, Halliburton Energy Services, Inc. and Patrick Baughman, Jr. hereby provide notice that this action is duly removed.

Respectfully submitted,

/s/ Heather M. Nagel
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ATTORNEYS FOR DEFENDANTS
National Union Fire Insurance Company

⁶ Exhibit A, *in globo*.

**of Pittsburgh, PA, Halliburton Energy Services,
Inc. and Patrick Baughman, Jr.**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing Notice of Removal has been served upon all known counsel of record by facsimile, email, and/or by placing same in the United States mail, postage prepaid and properly addressed, this 25th day of January, 2019.

/s/ *Heather M. Nagel*
HEATHER M. NAGEL